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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,138	12/16/2003	Harry E. Eaton	EH-10905(03-245)	6329
34704	7590	07/26/2006	EXAMINER	
BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			BLACKWELL RUDASIL, GWENDOLYN A	
			ART UNIT	PAPER NUMBER
			1775	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/737,138	EATON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gwendolyn Blackwell	1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-4,8,9,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4,8,9,18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 19 is objected to because of the following informalities:

Claim 19, line 24, contains the word "silidices". Should the word be "silicides"? To further prosecution, the word will be construed as "silicides". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.*

3. Claims 2-4, 8-9, and 18-19 are rejected under 35 U.S.C. 102(a) as being anticipated by United States Patent no. 2003/0138641, Fukudome et al.

#### *Regarding claim 19*

Fukudome et al disclose a corrosion resistant ceramic comprised of a silicon containing substrate, (page 1, section 0015), a surface layer of zirconium oxide (velocity barrier layer) having a porosity of 1-30%, (pages 1-2, sections 0016-0019), and an intermediate layer of a rare earth silicate (environmental barrier layer), formed between the substrate and the surface layer, (page 2, sections 0021-0022), meeting the limitations of claim 19.

#### *Regarding claims 2-4, 8-9, and 18*

When the structure recited in the reference is substantially identical to that of the claims, the claimed properties or function are presumed inherent. *MPEP 2112.01*. Because the prior art

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exemplifies Applicant's claimed ceramic layer structure, the claimed physical property relating to reduced velocity of an impinging gas stream is present in the prior art. As such, the addition of the claimed physical property to the claim language fails to provide a patentable distinction over the prior art of record, meeting the limitations of claims 2-3 and 8-9.

The substrate can be silicon nitride, silicon carbide, or Sialon, (page 2, section 0028), meeting the limitations of claim 4.

The corrosion resistant ceramic can be used as part of a turbine, (page 1, section 0002), meeting the limitations of claim 18.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 2-4, 8-9, and 18-19 have been considered but are moot in view of the new ground(s) of rejection set forth above.

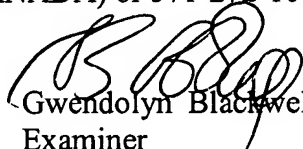
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Blackwell whose telephone number is (571) 272-1533. The examiner can normally be reached on Monday - Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gwendolyn Blackwell  
Examiner  
Art Unit 1775

gab